

ORIGINAL

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D. C. 20554

RECEIVED

JUN 27 2002

In the Matter of	)	
	)	CC Docket No. 94-102
Waiver of the Rules of the Federal	)	
Communications Commission Relating	)	Airtel Wireless, LLC
to the Transmission of Digital Wireless	)	Nevada Wireless, LLC
911 Calls from TTY Devices	)	

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

To: Chief, Wireless Telecommunications Bureau

**PETITION FOR WAIVER AND EXTENSION OF  
 DIGITAL WIRELESS E911 TTY REQUIREMENTS**

Airtel Wireless, LLC and Nevada Wireless, LLC (hereinafter "Petitioners"), by their attorneys, respectfully request a waiver and extension of Section 20.18(c) of the FCC Rules, 47 U.S.C. §20.18(c), and accompanying note. Specifically, Petitioners seek a waiver and eighteen-month extension of the June 30, 2002 deadline by which digital wireless operators must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY), with respect to Petitioners' Harmony Wireless Communication Systems™ ("Harmony" or "Systems").

As set forth below, because circumstances exist wherein digital E911 TTY capability is not yet technically feasible or commercially available to Petitioners in a practical manner, Petitioners request waiver of the deadline for digital E911 TTY capability. As demonstrated herein, good cause exists for this waiver because it is technically infeasible for Petitioners to comply with the June 30,

No. of Copies rec'd  
 List ABCDE

017

2002 deadline for digital E911 TTY implementation.<sup>1/</sup>

### **Background and Facts**

1. On December 1, 1997, the Commission adopted a *Memorandum Opinion and Order*, CC Docket No. 94-102, FCC 97-402, released December 13, 1997 ("MO&O") which, at para. 59, suspended until October 1, 1998 enforcement of the requirement that licensees providing service on *digital* wireless systems be able to transmit 911 calls made by individuals with speech or hearing disabilities. Suspension of enforcement of the subject Section 20.18(c) of the Commission's Rules was further extended until November 15, 1998,<sup>2/</sup> and again until January 1, 1999.<sup>3/</sup> Finally the Commission established the current deployment deadline of June 30, 2002.<sup>4/</sup>

2. Petitioners are covered carriers providing 800 MHz Specialized Mobile Radio ("SMR") service in rural areas. Each has implemented a digital Harmony system manufactured by Motorola, Inc. The Systems are small business, micro-digital derivatives of the iDEN technology deployed on

---

<sup>1/</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (DC Cir 1990) citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (DC Cir 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative.

<sup>2/</sup> Order in CC Docket No. 94-102, DA 98-1982 (Wireless Telecommunications Bureau), released September 30, 1998.

<sup>3/</sup> Order in CC Docket No. 94-102, DA 98-2323 (Wireless Telecommunications Bureau), released November 13, 1998.

<sup>4/</sup> Fourth Report and Order, CC Docket No. 94-102, FCC 00-436, released December 14, 2000.

a nationwide basis by Nextel Communications, Inc. ("Nextel").<sup>5/</sup> Harmony differs from the digital iDEN platform in that Nextel provides a sophisticated menu of services including cellular voice communications, short messaging, Internet access, data transmission and Direct Connect®, a digital two-way radio feature that permits direct communications between designated subscribers. Harmony is described by Motorola as a digital integrated wireless system offering the core voice communication capabilities of dispatch and telephone interconnect services. It is primarily a dispatch-oriented product with ancillary interconnection capability. Further, and unlike the iDEN network which utilizes a Nortel switch, the Harmony switch is a Motorola product, and the system is in its first generation. Currently, Harmony will support only up to sixteen transmitter sites and five thousand (5,000) subscriber units when and if it reaches full capacity.<sup>6/</sup> Petitioners' Systems are focused on serving the internal communications needs of government agencies and businesses, and are the only two Harmony systems deployed commercially in the country.<sup>7/</sup> Because Petitioners' systems are unique in their commercial application, the software and hardware necessary to meet the June 30, 2002 compliance deadline are not yet available.

---

<sup>5/</sup> Like iDEN, Harmony is a proprietary technology. Motorola is Petitioner's sole equipment source for its switch, its repeaters and its customers' handsets.

<sup>6/</sup> Motorola has committed to future software releases which will permit the system to increase capacity with up to forty-eight sites and ten thousand subscribers. However, these figures may prove optimistic. Petitioner's modeling of erlang usage indicates the System may experience a quality of service limitation at fewer than ten thousand customer units even with a significant preponderance of dispatch, rather than mobile telephone, traffic.

<sup>7/</sup> Most Harmony systems are owned and operated by private internal users, such as manufacturing plants, utilities or construction companies, with a primary need for dispatch communications, but with a large enough fleet and a sufficiently sophisticated communications requirement to justify investing in a digital network with interconnect capability and other enhanced features.

**Request for Waiver**

3. Petitioners have made good faith efforts to meet the June 30, 2002 deadline, and have determined that compliance is not presently achievable due to the lack of software and equipment to facilitate compliance with Section 20.18(c) in an economically feasible and technically reliable manner. Because Harmony was created with a focus on the regulatory requirements of private internal users, not third party commercial operators such as Petitioners, Motorola, the sole source provider for the Systems, has not yet provided Petitioners with the detailed information that would enable them to identify a specific path toward compliance with the E911 TTY deadline. Petitioners have initiated communication with Motorola on this subject; they are confident Motorola is committed to finding a E911 TTY solution for Harmony; and they are optimistic that a solution will be identified as soon as is practicably possible.

4. Since Motorola is the sole source provider for Harmony technology, Petitioners do not have the option of working with other vendors to resolve the E911 TTY compliance issue. That Motorola is not currently prepared to provide the necessary software and equipment is an impediment to timely compliance over which Petitioners have no control. Nevertheless, Petitioners intend to install compliant equipment as soon as it is commercially practicable to do so.

5. However, it is Petitioners' position that the inability of their system to provide E911 TTY service at this time will not harm the public interest. The Systems are largely dispatch-oriented, with customers transmitting push-to-talk messages among members of individual business or governmental fleets, although some customers use the interconnect capability as well. All of Nevada Wireless' customers and the great majority of Airtel Wireless' users are commercial fleets. Only a very small percentage of the Airtel Wireless customer base consists of individual subscribers who use the system

primarily for mobile telephone service. Indeed, prospective subscribers with this particular requirement are unlikely to select Petitioners' business-oriented systems. Instead, they would gravitate to one of the several cellular-like alternatives in Petitioners' market areas that are designed to serve individual subscribers, such as TTY-capable digital Commercial Mobile Radio Service providers, as well as analog wireless TTY and landline TTY.

7. Enforcement of Section 20.18(c) requirements against Petitioners would only jeopardize the ongoing viability of Petitioners' wireless services, which are nascent in their operations and which are offered to business customers in more rural, geographically remote population areas of the country. The FCC has stated numerous times that it intends to be a catalyst for the deployment of telecommunications services -- even more advanced services such as those offered by Petitioners' -- to rural areas.<sup>8/</sup> In this case, Petitioners request the opportunity to continue providing the high quality service presently offered to customers, and to be relieved of the immediate obligation to offer digital E911 TTY transmissions, by means of a waiver of Section 20.18(c) the FCC's rules.

8. Petitioners will implement E911 TTY capability, to the benefit of persons with speech and hearing disabilities, as soon as it is technically feasible to do so. Based upon its discussions with Motorola, Petitioners hope to be able to begin to offer reliable E911 TTY digital wireless service within the next eighteen months. Petitioners recognize the value of offering E911 TTY connections as a part of a digital wireless service, and will seek to have the E911 TTY feature implemented to full advantage, both as a matter of public health and safety and as a matter of good business practice, as expeditiously as possible.

---

<sup>8/</sup> Report and Order In the Matter of Federal-State Joint Board on Universal Service 12 FCC Rcd 8776, 8799-8806 (May 7, 1997).

**Conclusion**

For the reasons explained, Petitioners request a waiver of the Commission's requirements for transmission of 911 calls made from TTY devices using digital wireless systems, and, in particular, an eighteen month extension of the June 30, 2002 date for commencement of compliance with Rule Section 20.18(c). Petitioners' showing herein is consistent with the requirements for waiver set forth by the FCC. Its request is specific, focused and limited in scope. Furthermore, the public interest benefit of such grant exceeds the benefit of enforcement of the deadline in this instance. Accordingly, Petitioners request that a waiver be granted as proposed.

Respectfully submitted,

**AIRTEL WIRELESS, LLC  
NEVADA WIRELESS, LLC**

By: B. Lynn F. Ratnavale  
Elizabeth R. Sachs  
B. Lynn F. Ratnavale  
Its Attorneys

Date: June 27, 2002

Lukas, Nace, Gutierrez & Sachs, Chartered  
1111 19th Street N.W., Suite 1200  
Washington, D.C. 20036  
Ph# 202-857-3500

**DECLARATION**

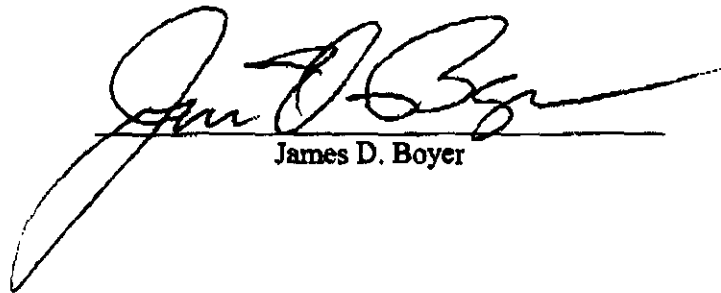
I, James D. Boyer hereby state and declare:

1. I am the Managing Member of Nevada Wireless, LLC, a Specialized Mobile Radio Service operator and the petitioner herein.

2. I am familiar with the facts contained in the foregoing "Petition For Waiver And Extension of Digital Wireless 911 TTY Requirements" and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of June, 2002.



James D. Boyer

**DECLARATION**

I, Alan R. Gingold hereby state and declare:

1. I am the CFO of Airtel Wireless, LLC, a Specialized Mobile Radio Service operator and the petitioner herein.

2. I am familiar with the facts contained in the foregoing "Petition For Waiver And Extension of Digital Wireless 911 TTY Requirements" and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27 day of June, 2002.

  
\_\_\_\_\_  
Alan R. Gingold

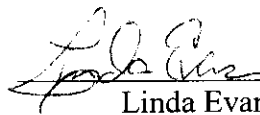


## **CERTIFICATE OF SERVICE**

I, Linda Evans, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chtd., do hereby certify that I have on this 27<sup>th</sup> day of June, 2002, sent by hand-delivery, a copy of the foregoing PETITION FOR WAIVER AND EXTENSION OF DIGITAL WIRELESS 911 TTY REQUIREMENTS to the following:

Thomas J. Sugrue, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W., Room 3-C252  
Washington, D.C. 20554

Mindy Littell  
Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W., Room 3-A161  
Washington, D.C. 20554

  
Linda Evans